Supreme Court, U.S.
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No. 93-499

IN THE
Supreme Court of the United States
OCTOBER TERM, 1993

CARL TAYLOR, SR.,
Petitioner,

v.

CENTRAL STATES SOUTHEAST AND SOUTHWEST AREAS PENSION FUND AND THE TRUSTEES THEREOF,
Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

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RESPONDENTS' BRIEF IN OPPOSITION

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QUESTION PRESENTED

Whether the Court of Appeals correctly determined that the District Court should be affirmed in it's grant of summary judgment in favor of the Respondents pursuant to Federal Rule of Civil Procedure 56(c).

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RESPONDENTS' BRIEF IN OPPOSITION

STATEMENT OF THE CASE

A. The Parties

The Central States, Southeast and Southwest Areas Pension Fund ("Central States") is a Taft-Hartley Trust, administered, pursuant to the requirements of the Act, by an equal number of employer trustees and employee trustees. The Pension Fund covers over 450,000 participants and beneficiaries and is a Multiemployer Trust with participants in over 30 states. The Trustees of the Pension Fund have established a Pension Plan that provides for retirement pensions to employees who work in the Teamster Industry, pursuant to collective bargaining agreements that require their employer to make contributions on their behalf to the Pension Fund, and who reach the age and service requirements stated in the Plan for

the applicable pension benefits. (R. 49, Motion by Defendants for Summary Judgment, Nelson Aff., p. 3.) The Central States Pension Fund is subject to regulation by ERISA, the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1001 *et seq.*

Carl Taylor, Sr. (the Plaintiff below) is a Michigan resident who worked for various employers in the Detroit, Michigan area as a truck driver and has claimed a twenty year retirement pension from the Central States Pension Fund based upon his allegation that he was an "employee" as that term is defined in the Central States Pension Plan for the required period of time to earn the benefit. (R.1, Complaint, pp. 1 and 2.)

B. Background Facts and Proceedings Below

Carl Taylor, Sr. filed a Petition for a Writ of Certiorari and served a copy of the Petition (by mail) upon the Respondent on September 3, 1993. The Clerk of this Court returned 39 copies of the Petition to counsel for the Petitioner on September 17, 1993 because the Petition was not in proper form. The Petitioner refiled the Petition and sent three copies to the Respondent in an envelope postmarked September 24, 1993. The Petition was received by the Respondents on September 27, 1993. The Respondents' Opposition to the Petition is proper up to and including October 27, 1993.

The Central States, Southeast and Southwest Areas Pension Fund and the Trustees thereof were sued by Carl Taylor, Sr. on October 27, 1988 for relief under the Employee Retirement Income Security Act of 1974 (ERISA), as amended, 29 U.S.C. § 1001 *et seq.* challenging the Trustees' interpretation of their plan denying him a pension benefit.[1] Mr. Taylor's ERISA action was

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[1] Many of the relevant facts are accurately stated in the opinion of the Sixth Circuit and the District Court. *See* Petitioner's Appendix at pp. A-10 to A-12. Citation to Petitioner's Appendix will be made as "Pet. App. at p. ——". Facts appearing in the record

brought pursuant to 29 U.S.C. § 1132(a)(1)(B). (Pet. App. at p. A-6.) He claimed he qualified for a pension pursuant to the terms of the Central States Pension Plan Document, but that the Defendant acted arbitrarily and capriciously in denying his benefit. Mr. Taylor alleged that the Trustees' decision was based upon incompetent and unsubstantiated evidence. (R. 1, Complaint, pp. 2-9.)

When the Central States Pension Fund Trustees first denied Mr. Taylor's claim to a pension on July 16, 1986, they considered the deposition testimony of his wife taken in an unrelated 1983 collection action against C. R. Taylor Company, Inc. (both Mr. and Mrs. Taylor worked for C. R. Taylor Company, Inc.). (Pet. App. at A-7) and (R. 49, Defendants' Motion for Summary Judgment (Minutes) p. 2.) In the District Court Mr. Taylor filed a motion to bar the use of his wife's deposition testimony.[2] Mr. Taylor's wife's deposition testimony arose from the fact that the Pension Fund had filed an ERISA collection action against C. R. Taylor Company, Inc. for delinquent contributions. That lawsuit resulted in a default judgment. The company had no lawyer in the collection case so the Central States attorney called Mrs. Taylor (the bookkeeper) and asked her to be examined under oath to determine the correct amounts owed by the company for delinquent contributions. (R. 8, Defendants' Response to Plaintiff's Brief in Support of Motion to Bar Use of Deposition Testimony, p. 5.)

It was to the advantage of the company to determine which employees could properly participate in the Pension

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below, but not in the Circuit or District Court opinions, will be parenthetically cited as "(R. ——)."

[2] The deposition of Mrs. Taylor in the 1983 collection case showed that her husband was not eligible to participate in the Pension Fund for the years 1975 to 1985 because he was a supervisor, not an employee, of C. R. Taylor Co., Inc. (R. 49, Motion by Defendant for Summary Judgment with Brief, Ex. C., pp. 256-263)

Fund because contributions would only be owed for those employees. When it was later decided that Mr. Taylor could not participate in the Fund, C. R. Taylor Company, Inc. was given a credit for the contributions it had made on his behalf. (R. 8, Defendants' Response to Plaintiff's Motion to Bar Use of Deposition Testimony, p. 16.)

Although a Magistrate found on February 25, 1989 that the deposition of Mrs. Taylor was taken in violation of the Federal Rules of Civil Procedure, the Magistrate did not bar the use of the deposition testimony by the district court. (R. 12, Order, p. 2.) The Defendants filed an objection to the Magistrate's decision with the District Court (insofar as the Magistrate ruled that the deposition was taken in violation of the federal rules) pursuant to Federal Rule of Civil Procedure 72(a). No ruling was made on the objection. On September 5, 1989 the parties agreed to an order of dismissal and a remand of the case to the Trustees of the Pension Fund for a full *de novo* rehearing on the issue of the Plaintiff's entitlement to pension benefits. (R. 38, Stipulated Order.)

Mr. Taylor, accompanied by counsel, appeared before the Trustees in July of 1990. However, notwithstanding arguments made by Mr. Taylor and his attorney, the Trustees again denied his claim. When the Trustees conducted the 1990 *de novo* review they had before them all the evidence that had been presented during the first administrative appeals process in 1986 and also new evidence, including an affidavit from Mr. Taylor's wife recanting her deposition testimony and evidence that Mr. Taylor (prior to the years that he worked at C. R. Taylor Company, Inc.) did not earn sufficient contributory service in those years to qualify for the pension. The Trustees considered affidavits submitted on behalf of Mr. Taylor regarding his past work record, his Social Security records and Pension Fund records regarding contributions made on his behalf for his entire period of employment in the

Teamster Industry. (R. 49, Motion by Defendants for Summary Judgment, Nelson Aff., Ex. C (Minutes) pp. 1-11.)

After the Trustees denied Mr. Taylor's claim for a second time, he reinstated his district court case on December 18, 1990. Shortly thereafter the Defendants filed a Motion for Summary Judgment. The District Court, finding that the parties agreed that the Trustees of the Central States Pension Fund were vested with discretionary authority to construe the terms of the Plan, applied the arbitrary and capricious standard to review their 1990 decision denying Mr. Taylor a twenty-year pension. The District Court found that there were no genuine issues of material fact. Summary Judgment was granted in favor of the Defendants on February 3, 1992. (Pet. App. at pp. A-7 to A-11.)

The United States Court of Appeals for the Sixth Circuit on June 3, 1993 affirmed the District Court. The record clearly supported that Mr. Taylor did not earn the necessary years of contributions to qualify for the pension benefit he sought. The Sixth Circuit reviewed the record presented to the Trustees, the discretionary grants of authority to the Trustees to determine benefit claims and, viewing the evidence in the light most favorable to Mr. Taylor, found that the evidence raised no genuine issue of material fact that he earned the required number of contributory service credits to qualify for the pension and thus affirmed the District Court's grant of summary judgment for the Defendants. (Pet. App. pp. A-3 to A-5.)

SUMMARY OF ARGUMENT

Summary Judgment was properly granted in favor of the Respondents because there was no genuine issue of any material fact that the Trustees of the Pension Fund, when they denied the Petitioner's claim for a benefit, did not act arbitrarily and capriciously. Both courts below

reviewed the complete record presented to the Trustees when they made their final decision. The Trustees interpreted their Plan and resolved factual issues against the claims made by the Petitioner. In doing so the Trustees did not abuse their discretion.

REASONS FOR DENYING THE WRIT

The Petitioner cites as his sole ground for this Court to issue a writ of certiorari that he was denied his day in court when the District Court found that the Trustees were not arbitrary and capricious in denying his pension and thereby granting summary judgment in favor of the Respondents. The Petitioner argues that the affidavits he submitted corroborated his claim to a pension. He states that the Trustees declined to give credibility to his affidavits but instead relied upon other evidence (including the deposition testimony of his wife). (Pet. pp. 2-4.)

The Petitioner's arguments do not raise any special and important reasons for the granting of his petition. The decision of the Sixth Circuit Court of Appeals has not so far departed from the accepted and usual course of judicial proceedings so as to call for this Court's power of supervision.[3] The District Court correctly applied Federal Rule of Civil Procedure 56(c) in granting the Defendant's Motion for Summary Judgment. The District Court's application of the rule was consistent with applicable authority. *Celotex Corp. v. Catrett*, 477 U.S. 317, 106 S.Ct. 2458, 91 L.Ed.2d 265 (1986); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 105 S.Ct. 2505, 91 L.Ed.2d 202 (1986); *Matsushita Elec. Indus. Co., Ltd. v. Zenith Radio Corp.*, 475 U.S. 574, 106 S.Ct. 1348, 89 L.Ed.2d 538 (1986). The Sixth Circuit did not err in affirming the grant of summary judgment. Both the District Court and the Circuit Court applied the correct substantive eviden-

[3] The Petitioner cites no authority so it is apparent he does not claim there is a conflict among the Courts of Appeals on any issue in this case.

tiary standard (i.e. a deferential review, the arbitrary and capricious standard) to a review of the decision of the Trustees. *Firestone and Rubber Co. v. Bruch,* 489 U.S. 101, 109 S.Ct. 948, 103 L.Ed.2d 80 (1989).

I. THE COURT OF APPEALS PROPERLY AFFIRMED THE GRANT OF SUMMARY JUDGMENT BY THE DISTRICT COURT

The Petitioner argues that he was denied his day in court by the grant of summary judgment because he was never permitted to bring in witnesses to support his claim that he was entitled to a twenty-year service pension from the Central States Pension Fund. He claims that the Trustees of the Pension Fund disregarded his affidavits and instead relied upon illegal and unsubstantiated evidence to deny his claim. (Pet. pp. 2-4.) But, while the Petitioner, in one breath complains that he was denied his day in court, in the next breath he argues that he submitted sufficient evidence to the Trustees which supported his entitlement to the pension benefit he sought. On one hand the petitioner says that he did not have a chance to prove his case but on the other hand he says that he did prove his case and the Trustees acted arbitrarily and capriciously in denying his appeal. (Pet. p. 4.)

In fact, the District Court properly applied Federal Rule of Civil Procedure 56(c) to grant summary judgment in favor of the Respondents. The District Court began its analysis with the proposition that the parties agreed that the Trustees, as fiduciaries of the Pension Fund, were invested with the necessary discretion to construe the terms of their benefit plan. (Pet. App. at p. A-7.) Thus, the District Court was presented with a case where the parties agreed that a deferential standard of review must be applied to the Trustees' decision. The analysis of the District Court considered the fact that Mr. Taylor needed 20 years of service credit (including 10 years of contributory service) to qualify for a twenty-

year service pension. (Pet. App. at p. A-8.) There were two hearings on Mr. Taylor's eligibility by the Trustees. The second hearing was a *de novo* review of all the evidence adduced after Mr. Taylor filed his lawsuit (including a review of Mr. Taylor's entire contribution history). The Trustees found that Mr. Taylor could not qualify because contributions were not submitted on his behalf for the required periods of time, he suffered a break in service, and he was not eligible to participate in the Fund while working as a supervisor at C. R. Taylor Company, Inc. The Trustees' decision was based upon a review of the entire record, including not only the evidence presented by Mr. Taylor, but also the contribution records maintained by the Pension Fund and Social Security records. The District Court found that there were independent reasons supplied by the Trustees to support their decision (even without considering the alleged improper deposition testimony of the Plaintiff's wife) and that there was no genuine issue of material fact regarding Mr. Taylor's qualifications for a pension. (Pet. App. at p. A-11.)

The Sixth Circuit affirmed the District Court. It noted that the Trustees supported their decision to deny Mr. Taylor's claim by a review of their own contribution records and Social Security records which showed that Mr. Taylor did not earn the required service to support his eligibility for the benefit. (Pet. App. pp. A-3 to A-4.) The Circuit Court found that Mr. Taylor failed to satisfy his burden. The Trustees considered his evidence and were unpersuaded. (Pet. App. p. A-4.) The Sixth Circuit also observed that the Trustees issued an eleven-page report (the minutes) of their meeting where Mr. Taylor's case was considered. The minutes contained detailed explanations of their decision with respect to each question of fact. (Pet. App. p. A-4.) The exact record that was presented to the Trustees when they denied Mr. Taylor's claim in 1990 was presented to both the District Court

and the Sixth Circuit. The entire record is contained in the Joint Appendix filed with the Sixth Circuit. That record starts with 11 pages of minutes. (R. 49, Motion by Defendant for Summary Judgment with Brief, pp. 189-199.) Attached to the minutes (and presented to the Trustees) were 164 pages of documentary evidence. The documentary evidence included relevant correspondence (including correspondence from attorneys representing Mr. Taylor), an analysis of Mr. Taylor's contributory service with the Pension Fund, a copy of his wife's deposition, his pension application records (including his Social Security records), and the affidavits and evidence submitted by his attorneys on behalf of his appeal. (R. 49, Motion by Defendant for Summary Judgment with Brief, pp. 200-364.) The minutes prepared by the Trustees to explain their ruling noted that, not only did Mr. Taylor not establish his entitlement to benefits by proving that he has earned a qualifying amount of service credit prior to his employment with C. R. Taylor Company, Inc. but, even if he had earned enough service credit, no contributions were made on his behalf between 1971 and 1977 and he thus suffered a break in service. Additionally, the Trustees confirmed their previous finding that he was not a bona fide employee of C. R. Taylor Company, Inc. for the years after 1977 because he was a supervisor and not eligible to participate in the Pension Plan. (R. 49, Motion by Defendants for Summary Judgment with Brief, Nelson Aff., Ex. C, pp. 189-199.)

The decisions of the District Court and the Circuit Court are consistent with the rulings in *Celotex v. Catrett*, *Anderson v. Liberty Lobby*, and *Matsushita v. Zenith*. The courts below applied the correct evidentiary standard (i.e. the arbitrary and capricious deferential review) based upon the parties agreement and the discretion given to the Trustees to decide benefit claims.[4] The courts below were

[4] The relevant provisions of the Central States Trust Agreement granting the Trustees discretionary authority to decide benefit

properly guided, in their determination of whether a genuine factual dispute existed, by the substantive evidentiary standard that applied to the case before them. *Anderson v. Libberty Lobby,* 477 U.S. at 255. Since Mr. Taylor would bear the burden of proof at trial to prove that the Trustees were arbitrary and capricious, the courts below thus properly found that there was no genuine issue as to any material fact in that regard because Mr. Taylor could not prove that the Trustees were arbitrary and capricious in rejecting his claim based upon the evidence submitted to them. The entire record that was before the Trustees when they made their final decision was before both the District Court and the Sixth Circuit so each court could review exactly what was presented to the Trustees. The Sixth Circuit noted that when the Trustees conducted a *de novo* review of Mr. Taylor's application on August 30, 1990 they reviewed all the allegations in his complaint and checked their own records (as well as the Social Security records) in order to determine Mr. Taylor's employment status for all the years of service claimed on his application. The court observed that the Trustees also examined the evidence submitted by Mr. Taylor and found that Mr. Taylor's case was considered, "with detailed explanations of their decision with respect to each question of fact." (Pet. App. p. A-4.)

The District Court found that the Trustees made findings concerning the years that Mr. Taylor worked for other companies prior to working for C. R. Taylor Company, Inc. and that the Fund records showed that Central

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claims are set out in full in the Joint Appendix. In summary, the Trustees of the Central States Pension Fund have authority to adopt rules and regulations for the operation and administration of the Funds and have the power to construe the provisions of the Trust Agreement and benefit plan and are vested with discretionary and final authority in making decisions regarding claims for benefits by participants and beneficiaries. (R. 49, Motion by Defendants for Summary Judgment with Brief, Nelson Aff., pp. 167-168 and Ex. B, pp. 177-179)

States had no record of contributions for the relevant period of time. The District Court also noted that the Trustees had determined that Mr. Taylor suffered a break in service for the years 1971 through 1977 and that the Trustees' record contained a reasonable explanation for their decision. (Pet. App. pp. A-8 to A-9.)

In the situation where Mr. Taylor is unable to make a showing sufficient to establish the existence of an essential element to his case there is no genuine issue as to any material fact and the Pension Fund was entitled to judgment as a mater of law. *Celotex v. Catrett*, 477 U.S. at 323.

The Petitioner does not contend that he did not have the opportunity to gather and submit evidence. In fact, he argues that he submitted his evidence, including affidavits and arguments and should have prevailed based on that evidence. (Pet. p. 4.) The Petitioner cannot argue that the Trustees lacked the discretion to interpret the Plan. The parties agreed that they had the necessary discretion and the plan documents support that conclusion.

II. A DEFERENTIAL STANDARD OF REVIEW WAS PROPERLY APPLIED TO THE TRUSTEES' DECISION

From the beginning of this litigation, the Petitioner has recognized that a deferential standard was proper to a review of the Central States Pension Fund Trustees' decision. His complaint only alleged that the Trustees were arbitrary and capricious in denying his claim. The parties agreed that the Trustees were given discretionary authority to determine eligibility for benefits and to construe the terms of their plan. Because the Trustees had the requisite discretionary powers, trust principles make a deferential standard of review appropriate to their decision. *Firestone Tire and Rubber Co. v. Bruch*, 489 U.S. at 110, citing *Central States, Southeast and South-*

west Areas Pension Fund v. Central Transport, Inc., 472 U.S. 559, 105 S.Ct. 2833, 86 L.Ed.2d 447 (1985). Because a deferential review of the Trustees decision denying Mr. Taylor's claim was appropriate, the courts below properly applied the correct substantive law to determine whether there was any factual dispute raised as to the question of whether the Trustees acted arbitrarily and capriciously in denying Mr. Taylor's claim to a pension. There is no genuine factual issue in that regard. In effect the Petitioner does nothing more than suggest that the Trustees should have reached a different conclusion than they reached because his affidavits should have convinced them of the merits of his position. The Petitioner concludes, because the Trustees did not rule in his favor, that the District Court should not have granted summary judgment because he was denied his day in court. However, he fails to point out any genuine issue of material fact as to whether the Trustees acted arbitrarily and capriciously, other than his vague claim that the Trustees should have ruled in his favor based upon his affidavits.

Both the District Court and the Circuit Court noted that the Trustees had a reasonable basis for their decision considering the Fund's own records and the Social Security records that supported the denial of Mr. Taylor's claim. Mr. Taylor simply raised no issue of fact indicating that he had earned the required years of contributions to qualify for the pension. The fact of the matter is that both the District Court and the Sixth Circuit recognized that the Trustees reviewed all the facts and arguments in the case. The Trustees, as fact finders, chose not to believe Mr. Taylor's evidence. They did not rely upon his affidavit. Instead the Trustees chose to rely upon their own contribution records and Social Security records. The Sixth Circuit found that the Trustees' reliance upon those records, rather than upon deficient affidavits submitted by Mr. Taylor, was not arbitrary and capricious. (Pet. App. p. A-5.)

The deposition testimony of Mr. Taylor's wife is a non-issue. The record is clear (it is even emphasized by the Petitioner) that the Trustees conducted a full *de novo* rehearing in 1990 of Mr. Taylor's entitlement to benefits. The second hearing was conducted long after the deposition in question was taken. The second hearing was conducted after her statement recanting the deposition. (Pet. p. 1-4 and Pet. App. pp. A-8 to A-9.) The record in this case does not come close to supporting that Mr. Taylor earned the required amount of credited service to qualify for the pension. The record contains a reasonable basis for the Trustees' decision and the Sixth Circuit recognized that reasonable basis. Because of that finding there is no genuine issue as to any material fact and summary judgment was appropriate. (Pet. App. pp. A-4 to A-5.)

CONCLUSION

For the foregoing reasons, Respondents submit that the petition for a writ of certiorari be denied.

Respectfully submitted,

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